

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

49

CASE NO. 03-cv-72701

MICHAEL WARD,

Petitioner,

HON. ARTHUR J. TARNOU
Senior U.S. Dist Ct Judge

v.

HUGH WOLFENBARGER, et al., ^{1/}

Respondent's.

FILED
JAN - 2 2020

CLERK'S OFFICE
DETROIT

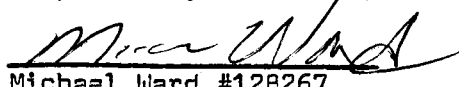
PETITIONER'S NOTICE OF RESPONDENT COUNSEL'S UNCLEAN HANDS,
RE: SUBORNATION OF PERJURY, AIDING & ABETTING, CONSPIRACY, FRAUD

NOW COMES Petitioner, MICHAEL WARD, pro-se, and submits for the record and Court's consideration, two attached grievances submitted to the Atty Griev. Comm'n., 12/26/19, against the two Respondent counsel's in this case, JOHN S. PALLAS (Amended AGC Griev.), and LINUS BANGHART-LINN (Orig. griev.).

The grievances are relevant and material to one or more issue(s) in this case; pending decision in Ward v Wolfenbarger, #03-cv-72701 (AJT)(pending Motion for Reconsideration (of 8/7/19 Op/Ord); ^{2/} and the companion habeas action of Ward v Warren, #19-cv-12543 (AJT).

On 12/16/19, ^{IN #19-CV-12543} Petitioner submitted to this Court for filing his "Motion to Consolidate" habeas actions #03-cv-72701 & #19-cv-12543. That motion remains pending as well.

Respectfully submitted,



Michael Ward #12A267
Macomb Corr Fac
34625 26 Mile Rd
Lenox Twp., MI 48048

Petitioner/Pro-per

Date: 12/30/19

^{1/} Hugh Wolfenbarger was Warden at time of filing this habeas petition. The Acting Warden is currently "Willis Chapman".

2/ SEE, Dkt #373 - Perjury MOTION

State of Michigan
 Attorney Grievance Commission
 535 Griswold, Suite 1700
 Detroit, MI 48226
 REQUEST FOR INVESTIGATION [R/I] FORM

Please fill out the entire form in ink - sign at the bottom - and provide a copy of any relevant information. In order to expedite the processing of your complaint, please provide 2 copies of any supporting documents.

Attorney information:

Name (one attorney per R/I form): LINUS BANGHART-LINN (P-73230)		
Address (number and street): Office of Mich. Attorney General Criminal Appellate Division 525 W. Ottawa; P.O. Box 30217		
City: Lansing	State: Michigan	Zip Code: 48909
Area code and e.mail: banghart-linn@michigan.gov		Is Atty for Respondents (State of Mich.):
Telephone Number: Ph#: (517) 335-7650		Date attorney was hired/appointed: N/A
Type of case (divorce, criminal, estate, etc.): Habeas Corpus		
Name of court: U.S. District Court, ED Mich., Southern Div.		Case#: 03-cv-72701 (AJT)
Is this your first complaint to this office about this attorney? Yes		Date of previous complaint (if applicable): N/A


STATEMENT OF FACTS

(Please provide details. You may attach additional pages.)

CHARGE: Wilfull, knowing & intentional AIDING & ABETTING, and CONSPIRING TO AID & ABET SUBORNATION OF PERJURY; FRAUD; MALPRACTICE together and in concert with co-conspirator Asst Mich. Atty General JOHN S. PALLAS (P-42512), and their client(s).

See, attached pages for Continuance ...

I request the Attorney Grievance Commission investigate the above attorney:

Your Name - print in ink: Michael C. Ward #128267		Mr./ <input checked="" type="checkbox"/> / Mrs./ <input type="checkbox"/> / Ms./ <input type="checkbox"/>
Your Signature - in ink: 		Date: 12/23/19
Address (number and street): Macomb Correctional Facility 34625 26 Mile Rd.		
City: Lenox Twp.	State: Michigan	Zip Code: 48048
Area code and Telephone number: Prison Inst. Ph#: (586) 749-4900		

(AGC RI Form rev. May 31, 2011)

PRELIMINARY PROOFS: Exh. #1 (12/9/19 partial DOCKET SHEET, showing Atty's Pallas & Banghart-Linn Representing Respondents (State agencies/agents); Exh. #A (3/8/12, Notice of e.filing); Exh. #B (3/5/12, Affidavit of Diana Judge); Exh. #C (8/7/19, Op/Ord of USDC, Judge A.J. Tarnow)(reported at: 2019 U.S. Dist. LEXIS 13227 (ED MI)); Exh. #D (9/6/19, Cert. of Compliance, re: MAAG Linus Banghart-Linn); Exh. #E (10/10/19, Petitioner's MOTION for order finding & sanctioning/prosecuting respondent agent "perjury"); Exh. #F (10/11/19, Settlement Proposal document); Exh.'s #G,H,I,J = Example documents as perjury evidence).

NOTE: This aggrieved party grievant RESERVES the right to submit additional evidentiary/documentary proofs; and to REPLY to L. BANGHART-LINN'S response. In addition, this grievant requests a FULL, FAIR & IMPARTIAL/UNBIASED INVESTIGATION; and that the investigator also personally speak with this grievant, and MDOC Records Admin., Diana Judge.

CRIMINAL STATUTES INVOLVED: Liberally construe the appropriate "perjury," "subornation of perjury," "fraud," "aiding & abetting," and "conspiracy" federal and state statutes, for this lay-man, pro-se, grievant.

MRPC's VIOLATED: Preamble; 1.2(a); 3.3(a)(1, 2, 4)

FACTS: With deliberate indifference and intent to prejudice and cause grievant Michael C. Ward irreparable injury; from on or about 3/5/2012, to date present 12/23/2019, and continuing; Attorney's John S. Pallas and Linus Banghart-Linn did wilfully, knowingly and intentionally, perpetrate in each of their individual capacities; and did for purpose of self-gain in egotistical status, aid & abet, and conspire together and with one another in concert, to illegally, immorally, and unethically facilitate and SUBORN the PERJURY of their client DIANA JUDGE (Mich. Dept of Corrections (MDOC), Records Administrator); perpetrate a FRAUD upon the U.S. District Court, ED Mich. and grievant Michael C. Ward, in the case of Ward v Wolfenbarger, #03-cv-72701 (AJT)(case still pending), as further discussed and stated herein as follows:

This grievance revolves around specific acts/omissions of John S. Pallas (P-42512) as the principle, and secondary as his co-conspirator, aider & abettor, LINUS BANGHART-LINN, in the still pending case of Ward v Wolfenbarger, #03-cv-72701 (AJT)(USDC, ED Mich.), and Banghart-Linn's interaction with this grievant, the U.S. Dist. Court, and his/their clients (specifically MDOC then Records Admin., Diana Judge).

On 3/5/12, Mr. Pallas did procure, with Linus Banghart-Linn's knowledge, a sworn affidavit from Diana Judge (Exh. A, B), wherein Ms. Judge swears under penalty of perjury that she reviewed all MDOC files and records, and removed all references to two 1971 convictions, which in 2004 USDC A.J. Tarnow ordered to be expunged. Ward v Wolfenbarger, 340 F Supp 2d 773 (ED Mich. 2004). This "Judge" affidavit (Exh. A) was submitted by Mr. Pallas to the USDC, #03-cv-72701, on 3/8/12; a document which Mr. Pallas (and Mr. Banghart-Linn) knew or should have known was or could have been outcome determinative, all to this grievant's substantial prejudice, causing him to lose his habeas case, and not be granted the

relief otherwise entitled.

NOTE: The gravamen of the habeas case is that the MDOC & Mich. Parole Board had been (post 2004), with Pallas and Banghart-Linn knowledge, continuing to create, disseminate, and consider, adverse to this grievant's interests, in its decision making processes, the ordered to be expunged 1971 convictions, in contempt of the 2004 expungement order.

It is believed that Mr. Pallas (with Banghart-Linn's knowledge), instructed Ms. Judge to create and submit to Pallas her 3/5/12 affidavit as written (i.e., coaching her in the affidavit's language). It is further believed that Mr. Pallas (with Banghart-Linn's knowledge), instructed Ms. Judge to state, and swear under oath to, in her affidavit, that she reviewed all relevant files, and removed all references to the two 1971 convictions; Mr. Pallas (with Banghart-Linn's knowledge), knowing that in fact, Ms. Judge would not and did not review (page by page), all relevant files (electronic & hard copy) that she attested to.

It is believed that Ms. Judge would testify and support this grievant's herein affirmations/allegations.

It is further believed that in doing so, Mr. Pallas's (and Mr. Banghart-Linn's) intent was wilfull, malicious, deliberate, knowing and intentional; his/their intention being (without regard of the consequences, direct and/or collateral), to gain an unfair, malicious, advantage, by submitting to the USDC the "Judge" affidavit, and using that affidavit in arguing (as he and his associate, Linus Banghart-Linn did), that the State/Respondents had complied with the expungement order; that this habeas Petitioner (grievant Mr. Ward) suffered no prejudice; that the issue was moot, and Mr. Ward was therefore not entitled to habeas relief.

It is believed that the combined conspiratorial acts/omissions of "Pallas/Banghart-Linn/Judge" perpetrated a "FRAUD" upon both this grievant (Mr. Ward), and the USDC in #03-cv-72701; and that the fraud is continuing, wilfull, and deliberately indifferent, with disregard to adverse consequences attached to grievant Mr. Ward, and the outcome of his habeas case:

NOTE: Pallas's co-conspirator BANGHART-LINN, continues representing the State (MDOC/Parole Authorities), in the directly related/companion habeas action of Ward v Warren, #19-cv-12543 (AJT)(companion to #03-cv-72701).

In fact, contrary to the "Judge" affidavit, and written pleadings submitted to the USDC by Mr. Pallas, and his associate MAAG Linus Banghart-Linn, literally HUNDREDS of documents (electronic & hard copy), containing the 1971 convictions, critical to decisions made by the MDOC/Parole Authorities, have remained in Mr. Ward's MDOC/Parole files post 3/5/2012 affidavit of Ms. Judge, and have been, post 3/5/2012, cause, or cause in part, for the several Parole Authority decisions to deny this grievant re-parole, and to recommend the Governor deny his several commutations applications over the years.

It is a FACT FOUND by the USDC, and admission of MAAG Linus Banghart-Linn, that from 2004 to at least 9/6/2019, references to the 1971 convictions REMAINED in grievant's MDOC/Parole Board several files, to his prejudice. See, Exh.'s C, D. Examples of just a few of the

documents bearing the 1971 conviction references (created and/or remaining in the MDOC/Parole Board files, from 3/5/2012 to at least 9/6/2019), explicitly, in the form of "prefix," or # of sentences received, are provided to the AGC, as Exh.'s G, H, I, J.

On 10/10/19, this grievant, as Petitioner Ward in case# 03-cv-72701, filed a "MOTION for order finding & sanctioning/prosecuting respondent agent 'perjury,'" naming John S. Pallas and Diana Judge. Exh. E. A copy of that motion was served on Mr. Pallas's co-conspirator and partner, Linus Banghart-Linn. That motion remains PENDING as of submission of this grievance, 12/23/2019.

On 10/11/19 this grievant, as Petitioner Ward in case# 03-cv-72701 (AJT), mailed to Mr. Pallas's MAAG partner (Linus banghart-Linn), a "SETTLEMENT PROPOSAL," identifying grievant's PERJURY charge against Mr. Pallas and Ms. Judge. Exh. F

As of date, 12/23/19, neither Mr. Pallas or Mr. Banghart-Linn have replied to the 10/10/19 "perjury" motion, nor the 10/11/19 "settlement proposal"; and in fact have COMPLETELY FAILED TO TAKE ANY FORM OF "REMEDIAL ACTION," (or other corrective action) whatsoever, informing the USDC that the 3/5/12 "Judge" affidavit makes a "FALSE" representation, and should be stricken as such from the record in case# 03-cv-72701. Instead, Mr. Pallas (and co-conspirator Mr. Linus Banghart-Linn), continue to fraudulently represent their client, Ms. Judge, in deliberately avoiding and otherwise assisting in the "fraudulent" act of his/their person(s), and that of his/their client.

Mr. Pallas and Mr. Banghart-Linn continue to offer and present the "false" Diana Judge affidavit as material evidence, known to him/them to be "false."

-END-

Respectfully submitted,



Michael Ward #128267

Grievant

Date: 12/²⁰~~23~~/19

PLEASE RETURN TO ME
YOUR ASSIGNED AGC #.

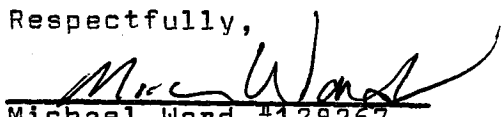
Dear AGC Grievance Administrator:

Enclosed is a grievance against Asst Mich Atty General, LINUS BANGHART-LINN. Please return to me your assigned AGC #.

NOTE: Accompanying is ANOTHER grievance against Asst Mich Atty General, JOHN S. PALLAS, as I am charging Pallas and Banghart-Linn with aiding/abetting and conspiring with one another, as attorney's of record in the same case.

Thank you for your time and processing. If you have any questions, let me know.

Respectfully,


Michael Ward #128267
Macomb Corr Fac
34625 26 Mile Rd.
Lenox Twp., MI 48048

Grievant

cc: file

AMENDED VERSION

State of Michigan
Attorney Grievance Commission
535 Griswold, Suite 1700
Detroit, MI 48226
REQUEST FOR INVESTIGATION [R/I] FORM

AMENDED VERSION

Please fill out the entire form in ink - sign at the bottom - and provide a copy of any relevant information. In order to expedite the processing of your complaint, please provide 2 copies of any supporting documents.

Attorney information:

Name (one attorney per R/I form):		JOHN S. PALLAS (P-42512)	
Address (number and street):		Appellate Division; Office of Mich. Atty General 525 W. Ottawa; P.O. Box 30217	
City:	Lansing	State:	Michigan
		Zip Code:	48909
Area code and e.mail:	pallasj@michigan.gov	Is Atty for Respondents (State of Mich.)	
Telephone Number:	Ph#: (517) 335-7650	Date attorney was hired/appointed: N/A	
Type of case (divorce, criminal, estate, etc.): Habeas Corpus			
Name of court:		U.S. District Court, ED Mich., Southern Div.	
		Case#: 03-cv-72701 (AJT)	
Is this your first complaint to this office about this attorney? Yes. (but see cvr letter)		Date of previous complaint N/A (But see enclos (if applicable): cover letter in explanation)	

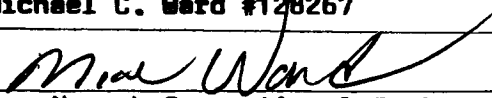
STATEMENT OF FACTS

(Please provide details. You may attach additional pages.)

CHARGE: Wilfull, knowing & intentional SUBORNATION OF PERJURY; FRAUD; MALPRACTICE and aiding & abetting, and conspiring to aid & abet subornation of perjury; fraud; malpractice, together and in concert with co-conspirator Asst Mich Atty General LINUS BANGHART-LINN (P-73230), and their client(s).

See, attached pages for Continuance ...

I request the Attorney Grievance Commission investigate the above attorney:

Your Name - print in ink:	Michael C. Ward #128267	Mr./X/ Mrs./ / Ms./ /
Your Signature - in ink:		Date: 12/23/19
Address (number and street): Macomb Correctional Facility 34625 26 Mile Rd.		
City:	Lenox Twp.	State: Michigan
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Area code and Telephone number: Prison Inst. Ph#: (586) 749-4900		

(AGC RI Form rev. May 31, 2011)

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Mr. Pallas and Mr. Banghart-Linn continue to offer and present the "false" Diana Judge affidavit as material evidence, known to him/them to be "false."

-END-

Respectfully submitted,



Michael Ward #128267
Grievant

²⁶
Date: 12/23/19

PLEASE RETURN TO ME
YOUR ASSIGNED AGC #.

Dear AGC Grievance Administrator:

As evidenced by the attached prison legal mail disbursement, and face page of the AGC grievance, on 11/20/19 I mailed to your office, a grievance against Asst Mich Atty General, JOHN S. PALLAS. As of date 12/23/19 I have NOT heard anything from the AGC, verifying receipt or assigning an AGC #.

Therefore, I am resubmitting, a slightly AMENDED version, upgrading the original, as new information came to my attention.

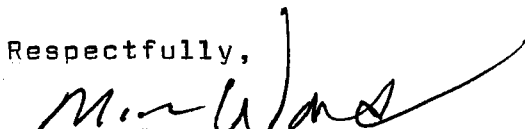
Please accept and process this AMENDED version, in lieu of the original that is dated 10/28/19, and was mailed to your old office on W. Congress St, on 10/28/19, but returned to me for "improper address," NOT forwardable. I then saw in the bar journal that your office had moved to present Griswold St.; and on 11/20/19, per the attached legal mail disbursement I remailed it to your office. AGAIN, I have not heard anything from your office since the mailing of 11/20/29.

AGAIN, please process the enclosed AMENDED version in lieu of the 11/20/19 mailing.

NOTE: Accompanying this mailing, is ANOTHER grievance against Mr. Pallas's partner, LINUS BANGHART-LINN, as an aider/abettor and co-conspirator to Mr. Pallas.

Thank you for your time and processing. If you have any questions, let me know.

Respectfully,


Michael Ward #128267
Macomb Corr Fac
34625 26 Mile Rd.
Lenox Twp., MI 48048

Grievant

cc: file

*** PUBLIC DOCKET ***

CLOSED,HABEAS,IFP,LR11.2_NOTICE,REOPENED

U.S. District Court
Eastern District of Michigan (Detroit)
CIVIL DOCKET FOR CASE #: 2:03-cv-72701-AJT

302-384

Ward v. Wolfenbarger
Assigned to: District Judge Arthur J. Tarnow
Demand: \$0
Case in other court: USCA, 04-02029

Date Filed: 07/21/2003
Date Terminated: 08/07/2019
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

U.S. Court of Appeals - Sixth Circuit,
07-02424
U.S. Court of Appeals - Sixth Circuit,
10-02287
U.S. Court of Appeals - Sixth Circuit,
10-02287/10-02313/11-00002
U.S. Court of Appeals - Sixth Circuit,
11-01032

Petitioner

Michael Ward

represented by Michael Ward

128267
MACOMB CORRECTIONAL
FACILITY
34625 26 MILE ROAD
LENNOX TWP., MI 48048
PRO SE

Federal Community Defender
Federal Defender Office
613 Abbott
5th Floor
Detroit, MI 48226
313-967-5542
TERMINATED: 02/26/2019
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Haralambos D. Mihas
Haralambos D. Mihas, Attorney at Law
467 Eureka Road
Suite 1
Wyandotte, MI 48192

#1

ATTORNEY TO BE NOTICED

V.

Respondent

Hugh Wolfenbarger
Warden

represented by **Brenda E. Turner**
Michigan Department of Attorney
General
Public Administration Division
P.O. Box 30736
Lansing, MI 48909
517-335-3922
Fax: 517-241-7987
Email: habeasdivision@michigan.gov
TERMINATED: 12/02/2011
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Janet Van Cleve
Michigan Department of Attorney
General
Habeas Corpus Division
P.O. Box 30217
Lansing, MI 48909-7717
517-373-4875
TERMINATED: 12/02/2011
ATTORNEY TO BE NOTICED

John S. Pallas
Michigan Department of Attorney
General
Appellate Division
P.O. Box 30217
Lansing, MI 48909
517-335-7650
Fax: 517/373-4916
Email: pallasj@michigan.gov
ATTORNEY TO BE NOTICED

Linus R. Banghart-Linn
Michigan Department of Attorney
General
525 W. Ottawa
P.O. Box 30217
Lansing, MI 48909
517-335-7650
Email: banghart-linnl@michigan.gov
ATTORNEY TO BE NOTICED

Other Documents

2:03-cv-72701-AJT Ward v. Wolfenbarger **CASE CLOSED on 06/30/2004**
CLOSED, APPEAL, HABEAS, IFP

U.S. District Court

Eastern District of Michigan

Notice of Electronic Filing

The following transaction was entered by Pallas, John on 3/8/2012 at 11:08 AM EST and filed on 3/8/2012

Case Name: Ward v. Wolfenbarger
Case Number: 2:03-cv-72701-AJT
Filer: Hugh Wolfenbarger
WARNING: CASE CLOSED on 06/30/2004
Document Number: 145

Docket Text:

EXHIBIT - Diane Judge Affidavit regarding 128267 Ward re [137] Answer (Free) by Hugh Wolfenbarger (Pallas, John)

2:03-cv-72701-AJT Notice has been electronically mailed to:

John S. Pallas pallasj@michigan.gov, moodyl@michigan.gov, musserk@michigan.gov

2:03-cv-72701-AJT Notice will not be electronically mailed to:

Michael Ward
128267
CARSON CITY CORRECTIONAL FACILITY
10274 BOYER ROAD
P O BOX 5000
CARSON CITY, MI 48811

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1047317467 [Date=3/8/2012] [FileNumber=4805321-0]
[193821831ae868c98bfbf4efacccacafbc6aab86527e3384cd481ca807cf11e48302
c1303206a719f1e205a387446885d876e23f0e7e4bdf9a35af0010ba8836]]

Exh. A

ATTORNEY TO BE NOTICED

V.

Respondent**Hugh Wolfenbarger**
*Warden*represented by **Brenda E. Turner**

Michigan Department of Attorney
General
Public Administration Division
P.O. Box 30736
Lansing, MI 48909
517-335-3922
Fax: 517-241-7987
Email: habeasdivision@michigan.gov
TERMINATED: 12/02/2011
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Janet Van Cleve

Michigan Department of Attorney
General
Habeas Corpus Division
P.O. Box 30217
Lansing, MI 48909-7717
517-373-4875
TERMINATED: 12/02/2011
ATTORNEY TO BE NOTICED

John S. Pallas

Michigan Department of Attorney
General
Appellate Division
P.O. Box 30217
Lansing, MI 48909
517-335-7650
Fax: 517/373-4916
Email: pallasj@michigan.gov
ATTORNEY TO BE NOTICED

Linus R. Banghart-Linn

Michigan Department of Attorney
General
525 W. Ottawa
P.O. Box 30217
Lansing, MI 48909
517-335-7650
Email: banghart-linnl@michigan.gov
ATTORNEY TO BE NOTICED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL CHARLES WARD, #128267

Petitioner,

v.

CASE NO. 03-cv-727701/72858-DT
HONORABLE ARTHUR J. TARNOV
UNITED STATES DISTRICT JUDGE

HUGH WOLFENBARGER, Warden,

Respondent.

AFFIDAVIT OF DIANA JUDGE

I, Diana Judge, being first duly sworn, depose and state as follows.

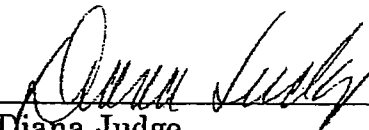
1. That I am the Records Administrator for the Michigan Department of Corrections.
2. That, pursuant to a request from John S. Pallas, Assistant Attorney General, I was directed to review the Michigan Department of Corrections records for Michael Charles Ward, Prisoner # 128267, to determine if any references remained to the prisoner's convictions for possession of marijuana and possession of LSD from 1971.
3. That the Records Administration staff spent approximately 100 hours reviewing all of Petitioner's Michigan Department of Corrections files over which I have authority beginning approximately on November 22, 2011, and ending on approximately February 23, 2012.
4. The files reviewed include the prisoner's Central Office file, his Record Office File, his Counselor file, his Audit file, his Education file and his Medical file.
5. The sum total of files reviewed stood approximately six (6) feet high.
6. That Records Administration staff conducted a systematic and thorough review of these files.
7. That any references in these records to the prisoner's expunged 1971 convictions that were observed during this review were redacted using a black felt-tip pen.

Exhibit to Amended Answer to Petitioner's Renewed
Request for Enforcement of the Writ of Habeas Corpus

B

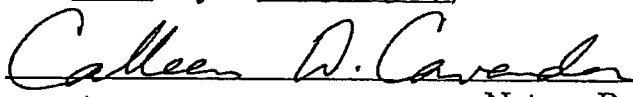
8. It is my good-faith belief, based on the review completed on February 23, 2012, that there are no longer any references to the prisoner's expunged 1971 convictions in the above-named files.

CALLEEN D. CAVENDER
NOTARY PUBLIC, STATE OF MI
COUNTY OF JACKSON
MY COMMISSION EXPIRES Aug 3, 2013
ACTING IN COUNTY OF


Diana Judge
Records Administrator
Michigan Department of Corrections

STATE OF MICHIGAN)
)ss
COUNTY OF INGHAM)

Subscribed and sworn to before me
this 5th day of March, 2012.


Notary Public
Jackson County, Michigan
My commission expires: 8/3/13

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL CHARLES WARD,

Petitioner,

v.

Civil Nos. 03-CV-72701-DT
HONORABLE ARTHUR J. TARNOV
UNITED STATES DISTRICT JUDGE

HUGH WOLFENBARGER,

Respondent,

**OPINION AND ORDER ON REMAND MODIFYING THE TERMS OF
THE GRANT OF THE WRIT OF HABEAS CORPUS AND RESOLVING
PETITIONER'S PENDING MOTIONS (Doc. 347, 349, 350)**

This matter is on remand from the United States Court of Appeals for the Sixth Circuit. Petitioner seeks enforcement of this Court's order of September 13, 2004 granting petitioner habeas relief on his 1971 convictions for possession of marijuana, M.C.L.A. 335.153; and possession of lysergic acid diethylamide (LSD), M.C.L.A. 335.341(4)(c) and ordering that these two convictions be expunged from his record.

For the reasons that follow, the Court modifies the terms and conditions of the original grant of the petition for writ of habeas corpus.

I. Background

On June 30, 2004, this Court granted a writ of habeas corpus to Petitioner, on the ground that he had been deprived of his right to appeal and his Sixth

Ward v. Wolfenbarger, 03-72701

Amendment right to appellate counsel on his 1971 convictions, because the state trial court failed to advise Petitioner that he had a right to appeal and had a right to the appointment of appellate counsel if he was indigent. See *Ward v.*

Wolfenbarger, 323 F. Supp. 2d 818, 828-30 (E.D. Mich. 2004). The Court conditioned the granting of the writ upon respondent taking immediate action to afford Petitioner an appeal of right to the Michigan Court of Appeals with the assistance of appellate counsel. *Id.*

Petitioner filed a motion for reconsideration and/or clarification of the Court's opinion and order. On September 14, 2004, the Court granted Petitioner's motion for reconsideration and ordered that an unconditional writ of habeas corpus issue in this case. See *Ward v. Wolfenbarger*, 340 F. Supp. 2d 773 (E.D. Mich. 2004). This Court believed that it erred in granting a conditional writ of habeas corpus, rather than an unconditional writ of habeas corpus, in light of the prejudice that Petitioner would suffer from any further delays in adjudicating his claims in the state appellate courts. Petitioner had been deprived of his Sixth Amendment right to the assistance of counsel on appeal when he was not advised on the record by the state trial court of his right to appeal or his right to the appointment of appellate counsel. Thirty three years had elapsed since the time of Petitioner's conviction. Because of the substantial delay, this Court determined that there was no way that granting Petitioner a new appeal of right

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with the Michigan Court of Appeals would vitiate any prejudice arising from the denial of Petitioner's right to appeal his 1971 convictions. *Id.* at 775-76.

The Court declined to order Petitioner's release from incarceration on these convictions, because the sentences on his 1971 convictions had expired. Instead, the Court concluded that Petitioner was entitled to have these 1971 convictions and all of the effects stemming from them expunged from his record. *Ward*, 340 F. Supp. 2d at 776-77. The Court vacated the judgment of conviction against Petitioner for the offenses of possession of LSD and possession of marijuana from the Huron County Circuit Court from January 20, 1971 and ordered that the record of conviction be expunged. *Id.* The Court further ordered the Clerk of the Circuit Court of Huron County, Michigan to forward a copy of this Court's order to any person or agency that was notified of Petitioner's arrest or conviction involved with these offenses. *Id.*

Petitioner has several times come before this Court, claiming that respondent failed to fully comply with the terms of the writ. Petitioner specifically claimed that his 1971 convictions were being used to deny him parole on his 1981 conviction for possession with intent to deliver 650 or more grams of cocaine, contrary to M.C.L.A. 333.7401 (1) and (2)(a)(i). This Court several times denied Petitioner permission to reopen his case, concluding that Petitioner presented insufficient evidence to show that the Michigan Parole Board (MPB)

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was using these 1971 convictions to deny parole to Petitioner.

In 2009, the Sixth Circuit affirmed one of the Court's decisions to deny Petitioner permission to reopen his habeas petition. *See Ward v. Wolfenbarger*, 342 F. App'x. 134 (6th Cir. 2009); *cert. den.* 130 S. Ct. 1291 (2010). The Sixth Circuit concluded at that time that Petitioner had offered "nothing other than speculation" that the Michigan Parole Board took into account the vacated 1971 convictions in a way that prejudiced his shot at parole. *Id.*, at 137.

Nonetheless, on July 14, 2014, after this Court had again denied Petitioner's request to enforce the writ, this case was remanded by another panel of the United States Court of Appeals from the Sixth Circuit for a determination of whether Petitioner's 1971 convictions, which this Court had ordered expunged, were still being used by the Michigan Department of Corrections (M.D.O.C.) to classify Petitioner and to determine his parole eligibility on his 1981 conviction.

Ward v. Wolfenbarger, No. 10-2287/2313, 11-2043 (6th Cir. July 14, 2014)(ECF 162). The Sixth Circuit noted that both parties had presented evidence to that court involving several documents from the M.D.O.C. concerning Petitioner's current incarceration on his 1981 conviction. These documents still listed Petitioner's 1971 convictions and also list Petitioner as having a "B" prefix, suggesting that the M.D.O.C. is still using the 1971 convictions against Petitioner in establishing his security classification. *Id.* at * 3-4 (ECF 162, Pg ID 22478-79).

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The Sixth Circuit then noted the following:

We will not consider new facts in the first instance on appeal and deny the motions to supplement the record on appeal. See Fed. R. App. P. 10(a); *United States v. Husein*, 478 F.3d 318, 335-36 (6th Cir. 2007). Nonetheless, these documents raise unanswered factual questions about whether Ward is still being classified based on the expunged 1971 convictions and whether his eligibility for parole has been adversely affected by the expunged convictions. The problem, as we see it, stems in part from the wording of the district court's order in *Ward II* [340 F. Supp. 2d 773 (E.D. Mich. 2004)], which did not explicitly instruct the State of Michigan to remove references to the expunged convictions in any document that might be used against Ward or instruct the State to reclassify him without using the expunged convictions. However, although the State of Michigan was not specifically ordered to remove the notation from documents viewable by the MPB [Michigan Parole Board], the State was certainly on notice that it was expected to do so and that it was under a duty to ensure that Ward suffered no collateral consequences from the expunged convictions. See *Ward III* [342 F. App'x.] at 136-37.

Id. at * 4 (ECF 162, Pg ID 2579).

The Sixth Circuit remanded the matter to this Court for further findings of fact. The Sixth Circuit concluded:

The district court may also consider granting relief in the form of a modified *Ward II* order explicitly instructing the State of Michigan to remove all references to the 1971 convictions from records that may be presented to the MPB and, if necessary, ordering that Ward be reclassified without consideration of the expunged convictions. The relief ordered should be designed to finally resolve this matter with clarity.

Id. at * 4.

The matter is now before this Court. Petitioner's first counsel filed a brief

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on petitioner's behalf. (ECF 277). Petitioner has also filed an extensive *pro per* supplemental brief on his own behalf, after his last counsel had been permitted to withdraw. (ECF ³⁰⁶302). Respondent has filed a response to the brief. (ECF 325).

Petitioner has presented evidence through his numerous pleadings that several documents from the M.D.O.C. concerning Petitioner's current incarceration still list Petitioner's 1971 convictions and also classify Petitioner as having a "B" prefix, which suggests that the M.D.O.C. is still using the 1971 convictions against Petitioner in establishing his security classification.

Respondent in his answer admits that Petitioner has submitted numerous documents from the M.D.O.C. which still list his expunged 1971 convictions and also give Petitioner a "B" prefix on his security classification. The Court will accept the factual allegations contained within Petitioner's briefs and supporting documents concerning the continued references to his expunged 1971 convictions by the M.D.O.C., because the respondent has not disputed these factual allegations in his answer. See *Cristini v. McKee*, 526 F. 3d 888, 894, n. 1 (6th Cir. 2008) ("When a state's return to a habeas corpus petition fails to dispute the factual allegations contained within the habeas petition, it essentially admits these allegations"); *Dickens v. Jones*, 203 F. Supp. 2d 354, 360 (E.D. Mich. 2002)(same).

A federal district court retains jurisdiction to determine whether a party has

Ward v. Wolfenbarger, 03-72701

complied with the terms of a conditional order in a habeas case. *Phifer v. Warden, U.S. Penitentiary, Terre Haute, Ind.*, 53 F. 3d 859, 861 (7th Cir. 1995). When the state fails to cure the error, i.e., when it fails to comply with the conditions of grant of conditional writ in habeas corpus proceedings, a conditional grant of a writ of habeas corpus requires the petitioner's release from custody. See *Satterlee v. Wolfenbarger*, 453 F. 3d 362, 369 (6th Cir. 2006). "[T]he conditional nature of the writ also places within the district court the power to determine that its order has been substantially complied with and release is not warranted." *Ward*, 342 F. App'x. at 137 (quoting *McKittrick v. Jeffreys*, 255 Fed.Appx. 74, 76 (6th Cir. 2007)). A court can also modify the conditions of a writ of habeas corpus if there is significant change either in the factual conditions or in the law. See *Harvest v. Castro*, 531 F.3d 737, 748 (9th Cir. 2008).

The Court has reviewed the pleadings and exhibits filed by the parties.

* The Court declines to order Petitioner's release because he has not shown that respondent failed to comply with the Court's order from 2004 as written when the M.D.O.C. failed to remove all references to Petitioner's 1971 convictions from their records. As the Sixth Circuit pointed out in its remand order, at the time this Court granted the unconditional writ on September 13, 2004, the Court only ordered the expungement of these convictions but did not explicitly order that these expunged 1971 convictions could not be referred to in Petitioner's parole

?

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file, considered by the Michigan Parole Board, or be used for Petitioner's security classification. Thus, any continued references did not specifically violate the terms of the 2004 order. X

That said, common sense would dictate that an order expunging a habeas petitioner's conviction would suggest that all references to that conviction should be removed from all records pertaining to that petitioner, including his or her prison and parole records. The State of Michigan was certainly on notice by the time of Petitioner's 2009 appeal that continued references to the expunged 1971 convictions in Petitioner's parole or institutional records might be problematic. X

Judge Jeffrey S. Sutton in his concurring opinion stated the following:

I join Judge Martin's opinion in full because, as he correctly observes, the remaining references to Ward's expunged convictions have not harmed his appeals to the parole board. I write separately merely to note that the Michigan Department of Corrections could have saved itself a lot of trouble by eliminating those references in the first place or perhaps by developing a better procedure for ensuring such references are removed. I understand that the Department operates on a tight budget, and I am "not insensitive to the challenges faced" by the Department in "attempting to separate, when it comes to prisoner suits, not so much wheat from chaff as needles from haystacks." *Jones v. Bock*, 549 U.S. 199, 224, 127 S.Ct. 910, 166 L.Ed.2d 798 (2007). But Ward's suit is not frivolous. He lost on the merits not because he and his attorneys failed to show problems with the Department's expungement of his conviction but because he has not shown that its mistakes harmed his case before the parole board. With a different prisoner and a different fact pattern, stray references to an expunged conviction might well affect a parole case in a cognizable way. ? X

Ward v. Wolfenbarger, 342 F. App'x at 138 (Sutton, J., concurring).

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This Court agrees with Judge Sutton's assessment: All of the parties would have been better off had all references to Petitioner's 1971 convictions been eliminated from his records. The Sixth Circuit in its remand order suggested that this Court modify the original terms of the writ of habeas corpus and "explicitly instruct[ing] the State of Michigan to remove all references to the 1971 convictions from records that may be presented to the MPB [Michigan Parole Board] and, if necessary, ordering that Ward be reclassified without consideration of the expunged convictions." *Ward v. Wolfenbarger*, No. 10-2287/2313, 11-2043, * 4. This Court believes that this would be the most equitable option to the parties.

Accordingly, the Court modifies the terms of the grant of the writ of habeas corpus to include the following conditions: The State of Michigan shall remove all references to the expunged 1971 convictions from any and all records submitted to the Michigan Parole Board. The Michigan Department of Corrections shall also remove any references to the expunged 1971 convictions from any records regarding Petitioner's security and institutional classification. The M.D.O.C. shall reassign Petitioner an "A" prefix to his institutional record. A certificate of compliance shall be filed with this Court within 30 days of the receipt of this order. *Ward v. Wolfenbarger*, 340 F. Supp. 2d at 777.

Petitioner also has before this Court three pending motions.

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Petitioner has filed a motion to reopen any docket entries concerning prior *pro per* motions that had been stricken because petitioner had previously been represented by counsel. (Doc 347). In a prior order dated February 26, 2019, (Doc. 333), this Court allowed Petitioner to resume filing *pro se* pleadings on his part after his third counsel was permitted to withdraw. Petitioner's current motion will be granted and the Court rescinds any orders striking Petitioner's previous *pro se* motions.

Petitioner also filed a motion to compel the prison librarian to make copies of the Federal Court Rules for Petitioner to use in court should oral argument or evidentiary hearings be required. (Doc. 349). This Court is granting Petitioner relief without the need for an evidentiary hearing; Petitioner will not need to bring any court rules to Court. The motion is denied as moot.

Petitioner has lastly filed a motion to compel the M.D.O.C. to provide him with the names and other information of the people who were involved in attempts to settle this case.

At a telephonic conference on October 30, 2018, this Court urged the parties to try and reach an out of court settlement in this case. Petitioner is serving a parolable life sentence for possession with intent to deliver 650 or more grams of cocaine, contrary to Mich. Comp. Laws § 333.7401 (1) and (2)(a)(i). Petitioner was sentenced in 1981 and has served almost thirty eight years in

40 (since 3/21/79)

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prison for this offense, minus a brief time on parole. Petitioner is sixty eight years old and suffers from a number of health problems. Effective March 1, 2003, the Michigan's Controlled Substances Act was amended pursuant to 2002 P.A. 665 to provide for different penalty schemes. This law eliminated the mandatory life sentence provision for possession with intent to deliver over 650 grams of cocaine, reflecting a general consensus that the old sentencing regime that petitioner was sentenced under was too harsh

Not
retroactive

At least one federal judge has noted "the possible value of promoting settlement negotiations in habeas corpus actions." *Washington v. Sobina*, 471 F. Supp. 2d 511, 518 (E.D. Pa. 2007). This judge believed that a settled negotiation of a habeas corpus would offer the same benefits to the parties that are afforded through the plea bargaining process in criminal cases. *Id.* (Citing to Anup Malani, *Habeas Settlements*, 92 VA. L.REV. 1, 18-19 (2006)). Judges should "provide a much needed stimulus, or at least plant the settlement seed in" the minds of the parties to a habeas case. *Id.*

This Court believed that a settled negotiation of this case between the Michigan Department of Corrections, the Michigan Parole Board, the Michigan Attorney General, and Petitioner, would have been in the best interests of the parties and the citizens of the State of Michigan. This Court still believes that to be the case.

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On April 18, 2019, this Court gave the parties 120 days to attempt to settle the case. The parties have now filed updates to the settlement status. (ECF 351-54). It does not appear that the parties will be able to reach a settlement on this case that is agreeable to both parties.

Petitioner in his current motion is attempting to pressure the M.D.O.C. and the Michigan Attorney General into settling the case. This Court, while sympathetic to Petitioner, and of the belief that his continued incarceration does nothing to advance the public safety of the State of Michigan or its citizens, does not have the power to force respondent to settle the case and grant Petitioner parole. "Although judges should encourage and aid early settlement, however, they should not attempt to coerce that settlement." *In re NLO, Inc.*, 5 F.3d 154, 157 (6th Cir. 1993). Indeed, "while settlement can and should be both encouraged and facilitated by a court it cannot be forced upon the parties." *In re Dow Corning Corp.*, 211 B.R. 545, 576 (Bankr. E.D. Mich. 1997). A "district court is under no obligation to force the parties to settle." *Blue v. Coca-Cola Enterprises, Inc.*, 43 F. App'x. 813, 816 (6th Cir. 2002). Accordingly, Petitioner's motion to obtain information regarding the names of the parties involved in the settlement negotiations (Doc. 350) is denied.

Finally, to the extent that Petitioner is challenging the Michigan Parole Board's decision to deny him parole release on his 1981 conviction for

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Ward v. Wolfenbarger, 03-72701

possession with intent to deliver over 650 grams of cocaine, he should challenge that parole denial by means of a separate habeas petition.

ORDER

IT IS ORDERED THAT The terms and conditions of the writ of habeas corpus issued on September 13, 2004 are modified as follows: the Michigan Department of Corrections shall remove all references to the expunged 1971 convictions for possession of LSD and possession of marijuana from any records that are or will be submitted to the Michigan Parole Board. The Michigan Department of Corrections is also ORDERED to remove any and all references to the expunged 1971 convictions from Petitioner's security and institutional classification. The Michigan Department of Corrections shall change Petitioner's prefix to an "A".

Petitioner's remaining motions are resolved in accordance with the terms of this opinion.

s/Arthur J. Tarnow
HON. ARTHUR J. TARNOW
UNITED STATES DISTRICT COURT

DATED: August 7, 2019

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL WARD,

Petitioner,

No. 2:03-cv-72701

v.

HON. ARTHUR J. TARNOW

PAT WARREN,¹

Respondent.

CERTIFICATE OF COMPLIANCE

On August 7, 2019, this Court ordered the State to “remove all references to the expunged 1971 convictions for possession of LSD and possession of marijuana from any records that are or will be submitted to the Michigan Parole Board,” to “remove any and all references to the expunged 1971 convictions from Petitioner’s security and institutional classification,” and to “change Petitioner’s prefix to an ‘A.’” (Dkt. 355, Order at 13, PageID #6245.) The State has fully complied with this Court’s order.

The Michigan Parole Board has access to Ward’s central office file. This file is made up of 16 folders filled with documents. Typically, only

¹ Ward is housed at the Macomb Correctional Facility, and his warden is Pat Warren. The caption should be amended to reflect the change.

D

the most recent folder would be provided to the Parole Board for review.

If a Parole Board member requested, however, that member could receive and review the entire file. Because the entire file is potentially available to the Parole Board, the State determined that compliance with this Court's order required examination of the entire file. To that end, two assistant attorneys general and one paralegal employed by the Office of the Attorney General combed through each page of the file, redacting any reference to the expunged convictions.

Macomb Correctional Facility, where Ward is housed, has both the file that is used when making Ward's security classification as well as the file that is used when making Ward's institutional classification.

The same three employees of the Attorney General's Office traveled to Macomb CF, and again combed through both files, redacting any reference to the expunged convictions.

And finally, Ward's prefix has been changed to an "A." (Ex. A, Basic Information Sheet.)

The State has thus complied with this Court's order.

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Respectfully submitted,

DANA NESSEL
Attorney General

s/Linus Banghart-Linn

Assistant Attorney General
Appellate Division
P.O. Box 30217
Lansing, MI 48909
banghart-linnl@michigan.gov
(P73230)

Dated: September 6, 2019

D²

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2019, I electronically filed the foregoing with the Court using the ECF system, which will send notification to the following:

DISTRICT JUDGE ARTHUR J. TARNOW

and I hereby certify that Kari Edgecomb has mailed by United States Postal Service the papers to the following non-ECF participant:

MICHAEL WARD, #128267
MACOMB CORRECTIONAL FACILITY
34625 26 MILE ROAD
LENOX TOWNSHIP, MI 48048

DANA NESSEL
Attorney General

s/Linus Banghart-Linn

Assistant Attorney General
Appellate Division
P.O. Box 30217
Lansing, MI 48909
(517) 335-7650
Banghart-linnl@michigan.gov
(P73230)

D³

MICHIGAN DEPARTMENT OF CORRECTIONS
BASIC INFORMATION SHEETCSX-117
Rev 09/01

Message New BIS created to correct Prefix and Record Number per Court Order dated 08/07/19. S. Buck/TCU 08/16/19	Date Received 03/30/1990
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Client Number A-128267	Client Name Ward, Michael	Commit Status R-05	Commitment Reason New Commitment (Reception Center Only)	Curr Loc MRF
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FBI Number 95867T3	SID Number 0661454H	SSN 375-52-0553	Birthdate 04/05/1951	Race W	Sex M	Height 5' 9"	Weight 164	Hair BRN	Eyes BRN	Complexion MED	Build MED	Marital N
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Adult Jail Term 0	Adult Prison 1	Adult Escapes 0	Adult Probation 1	Sex Offense 0	Juv. Commits 0	Juv. Probation 0	Juv. Escapes 0
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Religion D	Health Insurance U	Military Code	Marks, Scars NONE	More More
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Sentence Rec No 1	Docket Number 7913902-FY	Sentencing County Washtenaw	Judges Name Brown	Offense Date 03/21/79	Sentence Date 05/08/81	Jail Credit Days 780	Corrected Date 03/20/79
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Sentence Rec No 1	Terms Life to Life	Offense Description Controlled Substance	Compiled Law 333.74012A1	Convict By J	CTN Number
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Sentence Rec No 1	Calendar Date	SGT/PMI/TIS/CAL 09/19/1996	RGT/AMI/TIS/CAL Life	SGT/PMX Life	RGT/AMX Life
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PAROLE ELIGIBILITY DATE:

PREVIOUS SENTENCE INFORMATION

Client Prefix	Rec No	Sentence Date	Terms	Offense Description	SGT Max Date	RGT Max Date	Term/Disch Date

IN CASE OF SERIOUS ILLNESS OR INJURY CONTACT

Relationship SISTER	Name JANICE WARD	Address 205 CARPENTER RD
City & State BAD AXE MI	Telephone (989) 269-2226	

08/16/2019 10:41:32
A-128267 Ward, Michael

Page 1 of 1

DISTRIBUTION: White - Record Office, Canary - Central Office Records, Pink - Counselor, Goldenrod - Prisoner

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL WARD,

Petitioner,

v.

HUGH WOLFENBARGER, et al.,

Respondents.

CASE NO. 03-CV-72701

HON. ARTHUR J. TARNOW
Senior USDJ

REQUEST ORAL ARGUMENT
REQUEST EVIDENTIARY HEARING
REQUEST APPOINTED COUNSEL

PETITIONER'S MOTION FOR ORDER
FINDING AND SANCTIONING/PROSECUTING
RESPONDENT AGENT "PERJURY"

Petitioner, MICHAEL WARD, moves this Honorable Court for an order finding that Respondent's agent Diana Judge (MDOC Records Administrator), knowingly and intentionally committed the Federal felony act of "perjury"; and that Respondent's counsel, Mich. Asst Attorney General John S. Pallas, knowingly and intentionally conspired, aided and abetted^{1/} that "perjury", all to obstruct justice and to Petitioner Ward's injury and prejudice, as relating to the outcome of the above captioned cause. More specifically:

1. Reference John Pallas's notice of e.filing, and affidavit of Diana Judge, submitted by Mr. Pallas to this Court, under cover of Petitioner's pending MOTION FOR RECONSIDERATION, dated 8/14/19, as EXHIBITS 7-7b.

a) On 3/8/12 at 11:08 a.m. EST, John Pallas did e.file with this Court, in the above captioned cause, the affidavit of his client, Diana Judge, dated and sworn to under penalty of perjury on 3/5/12.

1/ And suborned.

1) The intent of Pallas and Ms. Judge was to gain an unfair and unconstitutional tactical advantage, in disregard of the injury and prejudice caused unto Petitioner Ward, and with disregard and deliberate indifference to the obstruction of justice that the affidavit and its filing would have in this case above captioned.

2. Quoting relevant portions of Ms. Judge's affidavit:

¶ 2 - "That, pursuant to a request from John S. Pallas, Asst Atty General, I was directed to review the MDJC records for Michael Charles Ward, #128267, to determine if any references remained to the prisoner's convictions for possession of marijuana and possession of LSD from 1971."

¶ 4 - "The files reviewed include the prisoner's Central Office file, his Record Office file, his Counselor file, his Audit file, his Education file and his Medical file."

¶ 6 - "That Records Administration staff conducted a systematic and thorough review of these files."

¶ 7 - "That any references in these records to the prisoner's expunged 1971 convictions that were observed during this review were redacted using a black felt-tip pen."

¶ 8 "It is my good-faith belief, based on the review completed on 2/23/12, that there are no longer any references to the prisoner's expunged 1971 convictions in the above-named files."

3. That, in fact, and now of record, Petitioner Ward, his former Federal Defender, and Respondent's counsel Linus Banghart-Linn have discovered literally hundreds of documents in the same files reviewed by Diana Judge, containing direct and indirect references and citations to the 1971 convictions. See documents filed as exhibits to Petitioner's pro-per supplemental brief; the Federal Defender's supplemental brief; and Petitioner's pro-per Reply Brief. And see, the "certificate of compliance," of Linus

Banghart-Linn, dated 9/6/19; NOTING Petitioner's objections to that certification dated 9/12/19.

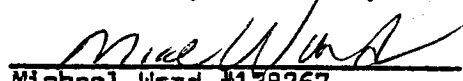
4. The sum total clearly indicating that it is most likely a jury would convict on the charge of perjury, conspiracy and aiding and abetting. ^{2/}

WHEREFORE, Petitioner prays this Honorable Court enter an appropriate order and fact-finding, including holding a formal evidentiary hearing permitting the subpoenaing of witnesses; and imposing upon the named parties to perjury, sanctions, including but not limited to monetary, and/or recommending to the U.S. Attorney that Federal Criminal charges/indictment issue, accordingly.

2/ And subornation.

Date: 10/10/19

Respectfully submitted,


Michael Ward #128267
Macomb Corr Fac
34625 26 Mile Rd
Lennox Twp., MI 48048

Petitioner/Pro-per

Date: 10/10/19

Re: Ward v Wolfenbarger, et al.
Case#: 03-cv-72701 (AJT)

Dear Clerk & Judge Tarnow:

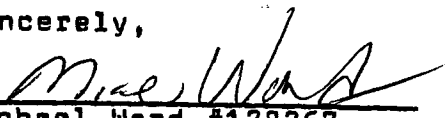
ENCLOSED for filing and the Court's consideration is one (1) original of the below pleading. On this date, by way of separate mailing I have mailed a "judge's copy" to Judge Tarnow's chambers.

1. PETITIONER'S MOTION FOR ORDER FINDING AND
SANCTIONING/PROSECUTING RESPONDENT AGENT "PERJURY";

2. Certificate/Proof of Service - See herein below.

Thank you for your time and assistance in processing this matter.

Sincerely,

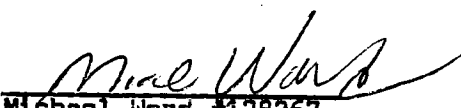

Michael Ward #128267
Macomb Corr Fac
34625 26 Mile Rd
Lenox Twp., MI 48048

Petitioner/Pro-per

CERTIFICATE/PROOF OF SERVICE

I, MICHAEL WARD, Petitioner herein, certify and declare under penalty of perjury that on 10/10/19, I placed a copy of the above identified "PETITIONER'S SUPPLEMENT TO PENDING MOTION FOR RECONSIDERATION, OFFERING A REALISTIC & EQUITABLE SOLUTION, w/Exh. attachments #1, 2," in the U.S. Mail, 1st class postage prepaid, addressed to the presiding judge, and opposing counsel of record: HONORABLE Arthur J. Tarnow, Senior USDJ, U.S. District Court, E.D. Mich., Theodore Levin U.S. Courthouse, 231 W. Lafayette Blvd., Room 124, Detroit, MI 48226; and LINUS BANGHART-LINN, Asst Mich Attorney General, Criminal Appellate Division, P.O. Box 30217, Lansing, MI 48909.

28 USC § 1746


Michael Ward #128267
Affiant/Petitioner

E³

Date: 10/11/19

Re: Ward v Wolfenberger, et al.,
Case#: 03-cv-72701 (AJT)

SUBJECT: SETTLEMENT PROPOSAL

Dear MAAG Linus Banghart-Linn:

Judge Tarnow's opinion & order of 8/7/19 continues to suggest that we settle this case. Should he not grant me the relief I ask for on pending motion for reconsideration, we have a long way to go in litigation; perhaps never ending. I do not want that, and I assume neither does your office, given the time and expenses incurred.

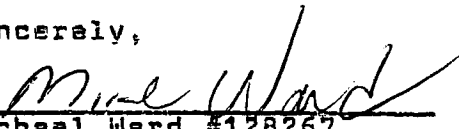
On 10/10/19 I mailed to you my motion asking the Court to find that John Pallas and Diana Judge committed the felony act of "PERJURY" in their respective capacities. I asked the Court to recommend the U.S. Attorney prosecute. There is a 50-50 % chance he just might grant that motion. If he does, it won't look good for your team.

THEREFORE, in resolution of this case, may I propose, suggest and recommend you strongly urge your client(s) to settle in the form of REINSTATING ME TO PAROLE, forthwith; with a preferable nunc pro tunc provision back to date of PV 7/15/05.

If you can promptly arrange that, I am willing to voluntarily DISMISS with prejudice this entire case, including the "perjury" motion.

If you have any questions or comments contact me directly.

Sincerely,


Michael Ward #128267

Macomb Corr Fac
34625 26 Mile Rd
Lennox Twp., MI 48048

Petitioner/Pro-per

cc: file

F

MICHIGAN DEPARTMENT OF CORRECTIONS
BASIC INFORMATION SHEET

CSX-117
 Rev 09/01

Message CTCU/QCU/E. Goniea 9/19/2011 Inaccurate PED provided.

Date Received
 03/30/1990

Client Number	Client Name	Commit Status	Commitment Reason	Curr Loc
3-128267	Ward, Michael	R-05	New Commitment (Reception Center Only)	DRF

FBI Number	SID Number	SSN	Birthdate	Race	Sex	Height	Weight	Hair	Eyes	Complexion	Build	Marital
320972H	0661454H	375-52-0553	04/05/1951	W	M	5' 9"	164	BRN	BRN	MED	MED	N

Adult Jail Term	Adult Prison	Adult Escapes	Adult Probation	Sex Offense	Juv. Commits	Juv. Probation	Juv. Escapes
2	4	0	1	0	0	0	0

Religion	Health Insurance	Military Code	Marks, Scars	More
D	U		NONE	More

Sentence Rec No	Docket Number	Sentencing County	Judges Name	Offense Date	Sentence Date	Jail Credit Days	Corrected Date
3	7913902-FY	Washtenaw	Brown	03/21/79	05/08/81	780	03/20/79

Sentence Rec No	Terms	Offense Description	Compiled Law	Convict By	CTN Number
3	Life to Life	Controlled Substance	333.74012A1	J	

Sentence Rec No	Calendar Date	SGT/PMI/TIS/CAL	RGT/AMI/TIS/CAL	SGT/PMX	RGT/AMX
3		Life	Life	Life	Life

PAROLE ELIGIBILITY DATE:

PREVIOUS SENTENCE INFORMATION

Client Prefix	Rec No	Sentence Date	Terms	Offense Description	SGT Max Date	RGT Max Date	Term/Disch Date
A	2	02/10/71	2y6m-4y	Vio Drug Law, 335.341			09/14/04
A	1	02/10/71	2y6m-10y	Vio Drug Law, 335.341			09/14/04

IN CASE OF SERIOUS ILLNESS OR INJURY CONTACT

Relationship	Name	Address
SISTER	JANICE WARD	205 CARPENTER RD
City & State	Telephone	
BAD AXE MI	(989) 269-2226	

02/24/2016 09:23:13
 B-128267 Ward, Michael

Page 1 of 1

G

DISTRIBUTION: White - Record Office, Canary - Central Office Records, Pink - Counselor, Goldenrod - Prisoner

RICK SNYDER
GOVERNORState of Michigan
DEPARTMENT OF CORRECTIONS
LANSINGDaniel H. Heyns
DIRECTOR

DATE: 12/04/2013

TO: WHOM IT MAY CONCERN

SUBJECT: VERIFICATION OF INCARCERATION

B-128267 - Ward, Michael

DOB: 04/05/1951

The above named offender is currently incarcerated with the Michigan Department of Corrections. The offender is currently serving on the charge(s) listed below, that do not have a termination date.

	<u>Term</u>	<u>Charge</u>	<u>Sentence Date</u>	<u>Termination Date</u>
3	Life to Life	Controlled Substance	05/08/81	
2	2y6m-4y	Vio Drug Law, 335.341	02/10/71	09/14/04
1	2y6m-10y	Vio Drug Law, 335.341	02/10/71	09/14/04

For further information regarding this offender you may log in to the MDOC OTIS website at <http://www.michigan.gov/corrections>. This website will provide further details regarding the offender including location, earliest release and maximum dates, alias names, identifiers, as well as an offender photo.

If further information is required once in the OTIS website, click on the name of the offender's location to link to the facility information. This will display the facility address and telephone number for further information.

Michigan Department of Corrections

H



State of Michigan
DEPARTMENT OF CORRECTIONS
LANSING

RICK SNYDER
GOVERNOR

Daniel H. Heyns
DIRECTOR

DATE: 06/18/2012

TO: WHOM IT MAY CONCERN

SUBJECT: VERIFICATION OF INCARCERATION

Pat B-128267 - Ward, Michael

DOB: 04/05/1951

The above named offender is currently incarcerated with the Michigan Department of Corrections. The offender is currently serving on the charge(s) listed below, that do not have a termination date.

	<u>Term</u>	<u>Charge</u>	<u>Sentence Date</u>	<u>Termination Date</u>
3	Life to Life	Controlled Substance	05/08/81	
②	2y6m-4y	Vio Drug Law, 335.341	02/10/71	09/14/04 ✓
①	2y6m-10y	Vio Drug Law, 335.341	02/10/71	09/14/04 ✓

For further information regarding this offender you may log in to the MDOC OTIS website at <http://www.michigan.gov/corrections>. This website will provide further details regarding the offender including location, earliest release and maximum dates, alias names, identifiers, as well as an offender photo.

If further information is required once in the OTIS website, click on the name of the offender's location to link to the facility information. This will display the facility address and telephone number for further information.

Michigan Department of Corrections

H'

COMILAS SCREENS																
PRIS #	PFX RCD	DOCK #	MCL	HAB OR OTHER CODE	CRIME NARRATIVE	CNT	GUN LAW	SENT DATE	JC	CORR DATE	OFF DATE	COMP TYPE	MIN TERM	MAX TERM	TERM DATE	TERM TYPE
128267 A01	2478		335341		VIOLATION DRUG	0	0	2/10/1971	0		2/10/1971	G	002/06/00	010/00	9/14/2004	26
128267 A02	2478		335341		VIOLATION DRUG	0	0	2/10/1971	0		2/10/1971	G	002/06/00	004/00	9/14/2004	26
128267 B03	7813902FY		33374012A1		UNLAWFUL MFG,DE	0	0	5/08/1981	780	3/20/1979	3/22/1979	J	LIFE	LIFE		

Before
report

Audit Sheet

H

MICHIGAN DEPARTMENT OF CORRECTIONS
PAROLE VIOLATION WORKSHEET AND DECISION

CFJ-226 2/02

This should be "AP" if 1871 "AP" were expunged

OFFENDER INFORMATION			
Name WARD, MICHAEL	MDOC Nbr 128267	Agent and Caseload Number TODD A KLOSKA - 2520 (989) 269-9975	Office Code Huron/Bad Axe - PBX
Parole Dates 11/11/2004 - 11/11/2008	PMX/SGT Max Life/Life	Risk Levels Assaultive Risk Low, Property Risk Low	
Supervision Level Parole Maximum Unemployed	TRV Eligible / STOP Eligible Yes/Unknown	Decision Level Level 3 A.M.	

** 1871*

CONVICTION HISTORY				
Prefix	Sentence Date	Offense	Min Term Yr(s)/Mo(s)	Max Term Yr(s)/Mo(s)
B	05/08/1981	333.74012A1 Controlled Substance - Del/Manuf. - Narc/Coc 650G or More	2	0
A	02/10/1971	335.341 Violation Drug Law	2	6
A	02/10/1971	335.341 Violation Drug Law	2	10

VIOLATIONS SINCE PAROLED		ARRESTS SINCE PAROLED	
Date	Violations	Date	Charges
04/08/2005	2.3 No paging device		

CURRENT ARREST INFORMATION - Report 101			
Arrest Date 07/15/2005	Arresting Agency Bad Axe Police Department	Booking Name Ward, Michael	
Offense - Disposition			
Bond Type None	Bond Amount	Posted No	Custody Location Huron County Sheriff's Department

*all dismissed - NO prob. cause
court ordered expunged 6/26/06*

CURRENT ARREST INFORMATION - Report 102			
Arrest Date 07/19/2005	Arresting Agency Bad Axe Police Department	Booking Name Ward, Michael	
Offense - Disposition Children-Accosting - Charges Dropped Indecent Exposure - Charges Dropped Alcohol-Sell Minor - Charges Dropped Mal Dest Bldg <\$200 - Charges Dropped			
Bond Type Cash	Bond Amount 10000.00	Posted No	Custody Location Huron County Sheriff's Department

Same incident Same conduct

CURRENT INCIDENT INFORMATION				
Viol. Date	Count	Code / Description	Prelim Finding	Finding Date
07/15/2005	1	04 Conduct	Waived	07/19/2005
07/15/2005	2	04 Conduct	Waived	07/19/2005
07/15/2005	3	04 Conduct	Waived	07/19/2005
07/15/2005	4	04 Conduct	Waived	07/19/2005
07/15/2005	5	04 Conduct	Waived	07/19/2005
07/15/2005	6	04 Conduct	Waived	07/19/2005
07/15/2005	7	04 Conduct	Waived	07/19/2005
07/15/2005	8	04 Conduct	Waived	07/19/2005
07/14/2005	9	2.0 Not use alcohol	Waived	07/19/2005
07/15/2005	10	1.2 No contact w/o adult	Waived	07/21/2005

PV INFORMATION								
PV Date 07/14/2005	Date Served 07/19/2005	Date Available 03/15/2006	Date Unavailable	45-Day Date 04/29/2006	PV Warrant Type #2	PV Warrant Date 07/26/2005	Dead Time No	Dead Time Days

RECOMMENDATIONS	
Agent: TODD A KLOSKA	Recommendation: Return for Parole Revocation Process

WARD, MICHAEL - 128267
06/22/2006 09:32:48

Page 1 of 2

Exh. # J



STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS
LANSING

RICK SNYDER
GOVERNOR

HEIDI E. WASHINGTON
DIRECTOR

March 27, 2018

Michael Ward, #128267
Macomb Correctional Facility (MRF)
34625 26 Mile Road
New Haven, Michigan 48048

Dear Mr. Ward:

Thank you for contacting the Michigan Parole Board.

If a CFJ-226 *Parole Violation Worksheet and Decision* form exists for a prisoner, the Parole Board would consider it in the decision making process.

Again, thank you for your letter.

Sincerely,

Michigan Parole Board

MPB/pae

Exh. # J1

Date: 12/30/19

Re: Ward v Wolfenbarger, et al.
Case#: 03-cv-72701 (AJT)

Dear Clerk & Judge Tarnow:

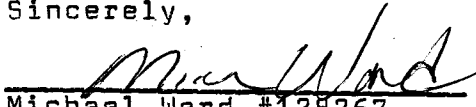
ENCLOSED for filing and the Court's consideration is one (1) original of the below pleading. On this date, by way of separate mailing I have mailed a "judge's copy" to Judge Tarnow's chambers.

1. PETITIONER'S NOTICE OF RESPONDENT COUNSEL'S UNCLEAN HANDS, RE: SUBORNATION OF PERJURY, AIDING & ABETTING, CONSPIRACY; and **FRAUD**

2. Certificate/Proof of Service - See herein below.

Thank you for your time and assistance in processing this matter.

Sincerely,

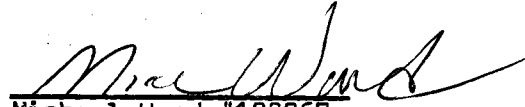

Michael Ward #128267
Macomb Corr Fac
34625 26 Mile Rd
Lenox Twp., MI 48048

Petitioner/Pro-per

CERTIFICATE/PROOF OF SERVICE

I, MICHAEL WARD, Petitioner herein, certify and declare under penalty of perjury that on 12/30/19, I placed a copy of the above identified PETITIONER'S NOTICE OF RESPONDENT COUNSEL'S UNCLEAN HANDS, RE: SUBORNATION OF PERJURY, AIDING & ABETTING, CONSPIRACY; and herein Certificate/Proof of Service, in the U.S. Mail, 1st class postage prepaid, addressed to the presiding judge, and opposing counsel of record: HONORABLE Arthur J. Tarnow, Senior USDJ, U.S. District Court, E.D. Mich., Theodore Levin U.S. Courthouse, 231 W. Lafayette Blvd., Room 124, Detroit, MI 48226; and LINUS BANGHART-LINN, Asst Mich Attorney General, Criminal Appellate Division, P.O. Box 30217, Lansing, MI 48909.

28 USC § 1746


Michael Ward #128267
Affiant/Petitioner

Michael Ward #128267
Macomb Correctional Facility
34625 26 Mile Rd.
Lenox Twp., MI 48048



12/30/19

1st
Class

RECEIVED
JAN - 2 2020
CLERKS OFFICE
U.S. DISTRICT COURT

TD:

CLERK of the Court
U.S. District Court, E.D. Mich.
Theodore Levin U.S. Courthouse
231 W. Lafayette Blvd., Room 564
Detroit, MI 48226

